



Leo Shalit, Esq.

March 2, 2023

Hon. James Cho
225 Cadman Plaza East
Brooklyn, New York 11201
Third Party Action: Safa Gelardi and IME Companions, LLC v. Carlos Roa

Case: 1:22-CV-1032 (PKC)(JRC)

Dear Judge Cho,

I represent Third Party Defendant, Carlos Roa.

I write this letter motion pursuant to Rule 37 of the Federal Rules of Civil Procedure, Rule 37.3 of the Local Civil Rules, and this Court's Individual Rules to seek an Order compelling IME Companions, Safa, and Vito to respond to Roa's discovery demands related to documents with appropriate remedies for their failure to timely respond, including but not limited to a waiver of any objections.

Document Requests remain outstanding for 3 months now, having been served on October 31, 2022.

The Parties have previously met and conferred on this issue. My office has also, in good-faith, consented to multiple courtesy extensions but discovery document responses have not been received. My client's portion of the deposition cannot go forward until documents are received.

Rule 37 of the Federal Rules of Civil Procedure provides that where a court grants a motion to compel it must "after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5)(A). By failing to respond or object to a discovery request in a timely manner, a party waives any objection which may have been available. *See Chowdhury v. Hamza Express Food Corp.*, No. 14-CV-150 (JBW), 2014 WL 12834831, at *2 (E.D.N.Y. Sept. 25, 2014) ("By failing to timely assert their objections within 30 days of service of the discovery demands, defendants have waived those objections.").



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The parties previous agreed that Defendant would serve responses by February 21, 2023. After that deadline passed, on February 23, 203, I emailed Opposing Counsel and attempted to schedule a meet and confer.

On February 27, 2023, I again emailed Opposing Counsel, who responded that he will call me later. No call was received.

On February 28, 2023, I emailed Opposing Counsel again and attempted to follow up on the status of the production.

Finally, on March 1, 2023, I emailed Opposing Counsel and advised that, “ Mr. Warner, my office did not hear from you yesterday. You can email me whatever you want to put in the letter motion.I still don’t have documents and I’m going to file it today.”

No response has been received. For these reasons, I have been unable to submit a joint letter.

Movant requests an Order stating that the Discovery Objections with respect to the Document Demands are waived in this matter and to Order compelling Responses within 15 days thereof as well as Fees for the motion.

Yours truly,

Leo Shalit, Esq.

Law Office of Leo Shalit